

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
EUGENE DIVISION

MARTIN RODRIGUEZ; BRITNI,
RODRIGUEZ;

Case No. 6:23 cv 01863-MK
ORDER

Plaintiffs,

v.

STATE OF OREGON; SALEM POLICE
DEPARTMENT; MARION COUNTY
SHERIFF'S DEPARTMENT; MARION
COUNTY JUSTICE COURT; MARION
COUNTY; CITY OF SALEM,

Defendants.

Magistrate Judge Mustafa Kasubhai filed Findings and Recommendation ("F&R") (doc. 94) on July 10, 2024. The matter is now before me. *See* 28 U.S.C. § 636(b); Fed. R. Civ. P. 72. No objections have been timely filed. Although this relieves me of my obligation to perform a *de novo* review, I retain the obligation to "make an informed, final determination." *Britt v. Simi Valley Unified Sch. Dist.*, 708 F.2d 452, 454 (9th Cir. 1983), *overruled on other grounds, United States v. Reyna-Tapia*, 328 F.3d 1114, 1121–22 (9th Cir. 2003) (en banc). The Magistrates Act does

not specify a standard of review in cases where no objections are filed. *Ray v. Astrue*, 2012 WL 1598239, *1 (D. Or. May 7, 2012). Following the recommendation of the Rules Advisory Committee, I review the F&R for “clear error on the face of the record[.]” Fed. R. Civ. P. 72 advisory committee’s note (1983) (citing *Campbell v. United States District Court*, 501 F.2d 196, 206 (9th Cir. 1974)); see also *United States v. Vonn*, 535 U.S. 55, 64 n.6 (2002) (stating that, “[i]n the absence of a clear legislative mandate, the Advisory Committee Notes provide a reliable source of insight into the meaning of” a federal rule). Having reviewed the file of this case, I find no clear error.

THEREFORE, IT IS HEREBY ORDERED that I ADOPT Judge Mustafa Kasubhai’s F&R (doc. 94). Plaintiffs’ Motion for Summary Judgment (doc. 33) is DENIED. The County Defendants’ Motion for Summary Judgment (doc. 49) is GRANTED as to Plaintiffs’ state law claims. The County Defendants’ Motion for Summary Judgment is construed as a motion for judgment on the pleadings as to Plaintiffs’ federal claims and, so construed, the motion is GRANTED. Plaintiffs’ federal claims are dismissed with leave to amend and Plaintiffs shall have thirty (30) days from the date of this order in which to file an amended complaint.

Dated the 29th day of July, 2024.

/s/Ann Aiken

Ann Aiken
United States District Judge